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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/690,159	10/17/2000	Oleg B. Rashkovskiy	INTL-0472-US (P10019)	2744

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EXAMINER

VU, NGOC K

ART UNIT

PAPER NUMBER

2611

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/690,159

Applicant(s)

RASHKOVSKIY, OLEG B.

Examiner

Ngoc K. Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,7-10 and 17-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,7-10 and 17-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

***Response to Amendment***

1. Applicant has not amended claim 1 and/or submitted an argument pointing out disagreements with the examiner's contentions corresponding to the action dated 12/05/2001, therefore, claim 1 is rejected under 35 U.S.C 102(e) same reason as indicated in the previous action.
2. It is noted that previous objection to claims 7 and 17 was based on intervening claims. That is claim 7 would be allowable if rewritten in independent form including all of the limitations of the base claim 7 and intervening claims 1, 5, and 6; and similar to claim 17, it would be allowable if rewritten in independent form including all of the limitation of the base claim 17 and intervening claims 11, 15 and 16.
3. Amendment filed 2/11/2002 with respect to claims 7-10 and 17-21 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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5. Claim 1 is rejected under 35 U.S.C. 102(e) as being anticipated by Slezak (US 6,006,257).

Regarding claim 1, Slezak teaches a method comprising: allowing the use of a content on a content receiver (viewing the primary program); automatically interrupting the use of the content; enabling the receiver to temporarily replace the content with advertising (interrupting a primary program with one or more secondary programs/advertising); determining a characteristic of the content; and selecting advertising to replace content based on the characteristic (providing the advertising based on the content of the primary program, for instance, if a viewer is watching an action movie as the primary program including a truck in a scene, secondary program can be interleaved which presents an advertisement related to a local truck dealer carrying a similar model of truck being shown in the primary program) (see col. 1, lines 14-22; col. 2, lines 9-14; col. 3, lines 45-51 and 59-62; col. 4, lines 14-28; col. 6, lines 43-47).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 7-10 and 17-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slezak (US 6,006,257) in view of Buehl (US 5,912,696).

Regarding claim 7, Slezak teaches a method comprising: allowing the use of a content on a content receiver (viewing the primary program); automatically interrupting the use of the content; enabling the receiver to temporarily replace the content with advertising (interrupting a primary program with one or more secondary programs/advertising) (see col. 1, lines 14-22; col.

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2, lines 9-14; col. 3, lines 45-51 and 59-62; col. 4, lines 14-28; col. 6, lines 43-47). Slezak does not teach accessing a predetermined the rating assigned to the content and comparing the rating for the content to rating specified by an advertiser. However, Buehl teaches the step of accessing viewer preference vector value assigned to the asset, wherein the asset includes movies, broadcast programs, video posters, commercials, etc. Buehl further teaches the step of comparing the rating for the asset (viewer preference vector value) to rating (asset rating vector value) specified by the producers (wherein the producers encode the keywords such as "sex", "violence", or "language" with the value numbers to the assets) to determine whether playing or blocking of asset (see col. 3, lines 50-53; col. 4, lines 45-54; col. 5, lines 28-42). Therefore, it would have been obvious to one of ordinary skill in the art to modify Slezak by determining the rating assigned to the content and comparing that rating to a rating specified by an advertiser in order to permit playing the suitable content only to the viewers corresponding to the accepted program rating aspect.

Regarding claim 8, Slezak teaches the recited limitation that reads on the timing of the display of the secondary program may depend upon the responses from the viewer and/or the content of the primary program (see col. 3, lines 59-62).

Regarding claim 9, Slezak teaches the recited limitation that reads on interrupting a primary program, at a predetermined time, with one or more secondary program, typically comprising advertising (see col. 3, lines 45-51).

Regarding claim 10, Slezak teaches the recited limitation that reads on the database unit can be programmed to make decisions regarding when to interrupt a movie with advertising (see col. 6, lines 42-47).

Regarding claim 17, Slezak teaches article comprising a medium for storing instructions (software or programming) that enable a processor-based system to allowing the use of a

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content on the system (viewing the primary program); automatically interrupting the use of the content; enable the system to temporarily replace the content with advertising (interrupting a primary program with one or more secondary programs/advertising) (see col. 1, lines 14-22; col. 2, lines 9-14; col. 3, lines 45-51 and 59-62; col. 4, lines 14-28; col. 6, lines 43-47). Slezak does not teach accessing a predetermined the rating assigned to the content and comparing the rating for the content to rating specified by an advertiser. However, Buehl teaches the step of accessing viewer preference vector value assigned to the asset, wherein the asset includes movies, broadcast programs, video posters, commercials, etc. Buehl further teaches the step of comparing the rating for the asset (viewer preference vector value) to rating (asset rating vector value) specified by the producers (wherein the producers encode the keywords such as "sex", "violence", or "language" with the value numbers to the assets) to determine whether playing or blocking of asset (see col. 3, lines 50-53; col. 4, lines 45-54; col. 5, lines 28-42). Therefore, it would have been obvious to one of ordinary skill in the art to modify Slezak by determining the rating assigned to the content and comparing that rating to a rating specified by an advertiser in order to permit playing the suitable content only to the viewers corresponding to the accepted program rating aspect.

Regarding claim 18, Slezak teaches the recited limitation that reads on the timing of the display of the secondary program may depend upon the responses from the viewer and/or the content of the primary program (see col. 3, lines 59-62).

Regarding claim 19, Slezak teaches the recited limitation that reads on interrupting a primary program, at a predetermined time, with one or more secondary program, typically comprising advertising (see col. 3, lines 45-51).

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Regarding claim 20, Slezak teaches the recited limitation that reads on the database unit can be programmed to make decisions regarding when to interrupt a movie with advertising (see col. 6, lines 42-47).

Regarding claim 21, Slezak teaches a system comprising a receiver (set top unit 504) that receives the transmission of content (receiving a the primary program), the receiver including a shell (overlay processing unit 130) to enable the use of content to be interrupted and temporarily replace with advertising (overlay processing unit displays texts and graphics to a viewer in conjunction with or independently of the primary or secondary program currently being displayed); and storage (database unit 38) coupled to the receiver (set-top unit) storing instructions that enable the receiver determines when to interrupt the content (the primary program) with the advertising and what advertising program to use (see col. 1, lines 14-22; col. 2, lines 9-14; col. 3, lines 45-51 and 59-62; col. 4, lines 14-28; col. 6, lines 43-47; col. 8, lines 18-39). Slezak fails to teach storing the instructions that enable the receiver to access a predetermined the rating assigned to the content and compare the rating for the content to rating specified by an advertiser. However, Buehl teaches a system 10 including television receiver 25 (set top box) storing instructions to that enable receiver to access viewer preference vector value assigned to the asset, wherein the asset includes movies, broadcast programs, video posters, commercials, etc. Buehl further teaches the step of comparing the rating for the asset (viewer preference vector value) to rating (asset rating vector value) specified by the producers (wherein the producers encode the keywords such as "sex", "violence", or "language" with the value numbers to the assets) to determine whether playing or blocking of asset (see col. 3, lines 50-53; col. 4, lines 45-54; col. 5, lines 28-42). Therefore, it would have been obvious to one of ordinary skill in the art to modify Slezak by determining the rating assigned to the

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content and comparing that rating to a rating specified by an advertiser in order to permit playing the suitable content only to the viewers corresponding to the accepted program rating aspect.

Regarding claim 22, Slezak teaches the system is a television receiver or set top unit (see figure 1).

Regarding claims 23, 24 and 26, Bueh modified Slezak further discloses the recited limitation that reads on the asset rating vector values indicating the characteristic and the type of the content such as "sex" corresponding with value number "4", "violence" with number "6", "language" with number "5" (see table 1).

Regarding claims 25 and 27, Bueh modified Slezak further discloses the recited limitation that reads on determining blocking or playing the assets based on comparison of asset rating vector value with user preference vector value (see col. 5, lines 35-42).

Regarding claim 28, Slezak teaches the recited limitation that reads on interrupting a primary program, at a predetermined time, with one or more secondary program, typically comprising advertising (see col. 3, lines 45-51).

Regarding claim 29, Slezak teaches the recited limitation that reads on the database unit can be programmed to make decisions regarding when to interrupt a movie with advertising (see col. 6, lines 42-47).

Regarding claim 30, Slezak teaches the recited limitation that reads on the timing of the display of the secondary program may depend upon the responses from the viewer and/or the content of the primary program (see col. 3, lines 59-62).

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ngoc K. Vu whose telephone number is 703-306-5976. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-306-0377.

NV  
May 28, 2002

  
ANDREW FAILE  
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